

# SENATE BILL No. 15

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-5-8-2.5; IC 3-11; IC 3-12; IC 3-14; IC 35-44-1-1.

**Synopsis:** Absentee ballots. Provides that an absentee ballot application may not be given to a voter if any information has been filled out before the application is given to the voter. Requires an absentee ballot application to be filed within specific times. Requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. Requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury. Permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. Provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. Requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. Makes other changes relating to absentee ballots. Establishes new criminal offenses relating to fraud and misrepresentation in elections.

**Effective:** July 1, 2005.

**Lawson C**

January 4, 2005, read first time and referred to Committee on Elections and Civic Affairs.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 15

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A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 3-5-8-2.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2005]: **Sec. 2.5. (a) The commission shall prescribe a statement**  
4 **known as the "Absentee Voter's Bill of Rights".**

5       **(b) The Absentee Voter's Bill of Rights must be in a form**  
6 **prescribed by the commission and include the following:**

7           **(1) A statement summarizing the rights and responsibilities of**  
8 **the voter when casting and returning the absentee ballot.**

9           **(2) A summary of Indiana and federal laws concerning**  
10 **providing assistance to the voter, completion of the ballot in**  
11 **secret, intimidation of voters, and the return of the absentee**  
12 **ballot to the county election board.**

13           **(3) Information concerning how to report violations of the**  
14 **absentee ballot and election laws.**

15       SECTION 2. IC 3-11-4-2 IS AMENDED TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A voter who wants to vote by  
17 absentee ballot must apply to the county election board for an official



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absentee ballot. **Except as provided in subsection (b), the voter must sign the absentee ballot application.**

(b) **If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter.** If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) **A person may not provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:**

- (1) **The name of the individual.**
- (2) **The voter registration address of the individual.**
- (3) **The mailing address of the individual.**
- (4) **The date of birth of the individual.**
- (5) **The voter identification number of the individual.**
- (6) **The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.**
- (7) **In a primary election, the major political party ballot requested by the individual.**
- (8) **In a primary or general election, the types of absentee ballots requested by the individual.**
- (9) **The reason why the individual is entitled to vote an absentee ballot:**
  - (A) **by mail; or**
  - (B) **before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);****in accordance with IC 3-11-4-18, IC 3-11-10-24, or IC 3-11-10-25.**

(d) **If the county election board determines that an absentee ballot application does not comply with subsection (c), the board shall deny the application under section 17.5 of this chapter.**

(e) **A person who assists an individual in completing an absentee ballot application shall state the following information on the application:**

- (1) **The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person providing the assistance.**

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(2) The date and location at which this assistance was provided.

(3) That the person providing the assistance has complied with Indiana laws governing the submission of absentee ballot applications.

(4) That the person has no knowledge or reason to believe that the individual submitting the application:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(f) A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:

(1) noon seven (7) days after the person receives the application; or

(2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first.

(g) A person filing an absentee ballot application received from an individual under subsection (f) must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

(1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person submitting the application.

(2) A statement of:

(A) the date the absentee ballot application was executed; and

(B) the location where the absentee ballot application was executed.

(3) A statement that the person filing the affidavit has complied with Indiana laws governing the submission of absentee ballot applications.

(4) A statement that the person has no knowledge or reason to believe that the individual whose application is to be filed:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(5) A statement that the person is executing the affidavit under the penalties of perjury.

(6) A statement setting forth the penalties for perjury.

(h) The county election board shall record the date and time of the filing of the affidavit and provide the person signing the

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1 affidavit with a file stamped copy of the affidavit without collecting  
2 any copying fee.

3 SECTION 3. IC 3-11-4-5.1 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) The  
5 commission shall prescribe the form of an application for an absentee  
6 ballot.

7 **(b) This subsection does not apply to the form for an absentee**  
8 **ballot application to be submitted by an absent uniformed services**  
9 **voter or overseas voter that contains a standardized oath for those**  
10 **voters. The form of the application for an absentee ballot must do**  
11 **all of the following:**

12 **(1) Require the applicant to swear to or affirm under the**  
13 **penalties of perjury that all of the information set forth on the**  
14 **application is true to the best of the applicant's knowledge and**  
15 **belief.**

16 **(2) Require a person who assisted with the completion of the**  
17 **application to swear to or affirm under the penalties of**  
18 **perjury the statements set forth in section 2(e) of this chapter.**

19 **(3) Set forth the penalties for perjury.**

20 ~~(b)~~ (c) The form prescribed by the commission shall require that a  
21 voter who:

22 (1) requests an absentee ballot; and

23 (2) is eligible to vote in the precinct under IC 3-10-11 or  
24 IC 3-10-12;

25 must include the affidavit required by IC 3-10-11 or a written  
26 affirmation described in IC 3-10-12.

27 **(d) The form prescribed by the commission must require that a**  
28 **voter who requests an absentee ballot to vote by mail must state a**  
29 **specific reason on the application to set forth the basis for the**  
30 **voter's reasonable expectation of being absent from the county on**  
31 **election day during the entire twelve (12) hours that the polls are**  
32 **open.**

33 SECTION 4. IC 3-11-4-17.5 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.5. (a) Upon  
35 receiving an application for an absentee ballot, the county election  
36 board **(or the absentee voter board in the office of the circuit court**  
37 **clerk)** shall determine if:

38 **(1) the applicant is a voter of the precinct in which the applicant**  
39 **resides, according to the records of the county voter registration**  
40 **office;**

41 **(2) the information set forth on the application appears to be**  
42 **true; and**

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**(3) the application has been completed and filed in accordance with Indiana and federal law.**

**If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination.**

**(b) If:**

**(1) the applicant is not a voter of the precinct according to the registration record; or if**

**(2) the application as completed and filed:**

**(A) contains a false statement; or**

**(B) does not otherwise comply with this chapter, Indiana or federal law;**

**as alleged under section 18.5 of this chapter, the county election board shall deny the application.**

~~(b)~~ **(c)** This subsection applies ~~after December 31, 2003~~, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

**(1) not later than forty-eight (48) hours after the application is denied; and**

**(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.**

~~(c)~~ **(d)** ~~This subsection applies after December 31, 2003.~~ If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

**(1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and**

**(2) the applicant has filed this documentation according to the records of the county voter registration office.**

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(d)~~ **(e)** If the applicant:

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- (1) is a voter of the precinct according to the registration record;  
 (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and  
 (3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 5. IC 3-11-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) If a voter satisfies any of the ~~following~~, **qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail**, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

- (1) The voter will be absent from the county on election day:  
 (2) The voter will be absent from the precinct of the voter's residence on election day because of service as:  
     (A) a precinct election officer under IC 3-6-6;  
     (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;  
     (C) a challenger or pollbook holder under IC 3-6-7; or  
     (D) a person employed by an election board to administer the election for which the absentee ballot is requested;  
 (3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury;  
 (4) The voter is a voter with disabilities;  
 (5) The voter is an elderly voter;  
 (6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury;  
 (7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open;  
 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter,

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the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) **Except as provided in section 18.5 of this chapter**, the ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) **Except as provided in section 18.5 of this chapter**, the ballot described in subsection (d):

(1) must be mailed:

- (A) on the day of the receipt of the voter's application; or
- (B) not more than five (5) days after the latest date for delivery of the ballots under section 13(b) of this chapter applicable to that election;

whichever is later; and

- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board ~~must~~ **shall** establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 6. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2005]: **Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with the county election board alleging that the application:**

- (1) was not submitted by a voter of the precinct;**
- (2) contains a false statement; or**
- (3) has not been executed or filed in accordance with Indiana or federal law.**

**(b) The affidavit must be in a form prescribed by the commission and state the following:**

- (1) The name and title of the individual filing the affidavit.**
- (2) A brief statement of the facts known or believed by the individual regarding why:**
  - (A) the applicant is not a voter of the precinct;**
  - (B) the application contains a false statement; or**
  - (C) the application has not been executed or filed in accordance with Indiana or federal law.**
- (3) That the individual is executing the affidavit under the penalties of perjury.**
- (4) The penalties for perjury.**

**(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.**

**(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.**

**SECTION 7. IC 3-11-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:**

- (1) The name of the precinct and township (or ward and city or town).**
- (2) That the voter is:**
  - (A) a resident of; or**
  - (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.**
- (3) The voter's complete residence address, including the name of the city or town and county.**
- (4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.**
- (5) That:**

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(A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;

(B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

**(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury.**

SECTION 8. IC 3-11-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A voter voting by absentee ballot may mark a ballot with a pen or a lead pencil.

**(b) A person may not engage in electioneering (as defined in IC 3-14-3-16) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law.**

SECTION 9. IC 3-11-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail:

(1) The voter ~~will be~~ **has a specific, reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open and requests that the absentee ballot be mailed to the voter at an address that is not located within the county where the voter resides.**

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(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

- (A) a precinct election officer under IC 3-6-6;
- (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
- (C) a challenger or pollbook holder under IC 3-6-7; or
- (D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury **during the entire twelve (12) hours that the polls are open.**

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury **during the entire twelve (12) hours that the polls are open.**

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

**(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the entire twelve (12) hours that the polls are open.**

(b) A voter with disabilities who:

- (1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and
- (2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

**(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall:**

- (1) deposit the sealed envelope in the United States mail for delivery to the county election board; or**
- (2) authorize a member of the voter's household or the individual designated as the voter's attorney in fact to:**
  - (A) deposit the sealed envelope in the United States mail;**
  - or**
  - (B) deliver the sealed envelope in person to the county**

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election board.

(d) If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The affidavit must contain the following information:

(1) The name and residence address of the voter whose absentee ballot is being delivered.

(2) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.

(3) A statement indicating whether the individual delivering the absentee ballot is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed with the county election board.

(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual delivering the absentee ballot is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

~~(c)~~ (f) After a voter has mailed or delivered an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 10. IC 3-11-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) A voter who votes by absentee ballot because of:

(1) illness or injury; or

(2) caring for a confined person at a private residence;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter

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with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
  - (A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
  - (B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

- (1) agreed to by the board and the voter; and
- (2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this

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section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

**(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter.**

SECTION 11. IC 3-12-6-21.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21.9. (a) **Except as provided in subsection (c)**, a recount for nomination to an office conducted under this chapter shall be completed not later than the final Friday in June following the primary.

(b) **Except as provided in subsection (c)**, a recount for election to an office conducted under this chapter shall be completed not later than December 20 following the election.

**(c) The court that appointed the commission may issue an order to extend the deadline under this section to a specific date if the court finds that there is good cause to do so.**

SECTION 12. IC 3-12-11-17.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.7. **(a) This section applies to ballots cast by any voting method.**

~~(a)~~ **(b)** Unless the state recount commission makes a finding under subsection ~~(b)~~; **(c)**, the commission shall:

- (1) count ballots in accordance with this article; and
- (2) not order that all ballots in a precinct not be counted.

~~(b)~~ **(c)** If:

- (1) a party to the recount presents evidence of fraud, tampering, or misconduct affecting the integrity of the ballot within a precinct; and
- (2) the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission to determine the approximate number of votes that each candidate received in that precinct;

the commission may order that none of the ballots from that precinct be counted.

SECTION 13. IC 3-12-11-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) **Except as provided in subsection (b)**, a recount **or contest** for election to a legislative office shall be completed **by the state recount commission** before December 20 after the election.

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(b) The state recount commission may adopt orders extending the deadline for completion of a recount or contest to a date specified in the order if the commission finds that there is good cause to do so.

~~(b)~~ (c) Before ~~December 20~~ Not later than seven (7) days after the election, state recount commission completes a recount, the election division shall prepare two (2) certified statements showing the total number of votes that each candidate received. The election division shall transmit one (1) statement to the candidate receiving the highest number of votes for the office. ~~Before December 20 after the election,~~ After the statements have been prepared, the secretary of state shall deliver the other statement to the presiding officer of the house in which the successful candidate is to be seated.

~~(c)~~ (d) The statement shall be referred by the presiding officer for such action as that house considers appropriate.

SECTION 14. IC 3-14-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) This section does not apply to an individual subject to 2 U.S.C. 441h.

(b) An individual who:

(1) is:

(A) a candidate; or

(B) an employee or agent of a candidate; and

(2) knowingly misrepresents:

(A) the individual; or

(B) an organization under the control of the individual; as speaking, writing, or otherwise acting for or on behalf of another candidate, another political party, an employee or agent of another candidate, or an employee or agent of another political party on a matter that is damaging to the other candidate, the other political party, an employee or agent of the other candidate, or an employee or agent of the other political party;

commits a Class A misdemeanor.

SECTION 15. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor: knowingly does any of the following commits a Class D felony:

(1) Conspires with an individual for the purpose of

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encouraging the individual to submit a false application for registration.

(2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.

(3) Pays or offers to pay an individual for doing any of the following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

(4) Accepts the payment of any property for doing any of the following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

SECTION 16. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. A person who does either of the following, knowing that an individual is ineligible to register to vote or to vote, commits absentee ballot fraud, a Class D felony:**

(1) Solicits the individual to complete an absentee ballot application.

(2) Solicits the individual to submit an absentee ballot application to a county election board.

SECTION 17. IC 3-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. A person who:**

(1) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** knowing that the application contains a false statement; or

(2) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** without writing on it the person's own name and address as an attesting witness;

~~commits a Class A misdemeanor.~~ **Class D felony.**

SECTION 18. IC 3-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. (a) A person who recklessly destroys or fails to deliver an absentee ballot application to the proper officer after the application has been executed by another individual in accordance with IC 3-11-4 commits a Class A misdemeanor.**

**(b) A person who recklessly destroys or fails to file or deliver to the**

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proper officer a registration affidavit or form of registration after ~~it the~~  
**affidavit or form** has been executed commits a Class A misdemeanor.

SECTION 19. IC 3-14-2-13 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A person who  
 knowingly hires or solicits another person

(1) ~~to come into Indiana; or~~

(2) to go ~~from one precinct~~ into ~~another a~~ precinct

for the purpose of voting at an election **at the precinct** when the person  
 hired or solicited is not a voter in ~~Indiana~~ or the precinct commits a  
 Class D felony.

SECTION 20. IC 3-14-2-15 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. A member of the  
 commission, an employee **or agent** of the ~~commission; election~~  
**division**, or a member, **employee, or agent** of a county election board  
 who knowingly delivers a ballot to a person except in the manner  
 prescribed by this title commits a Class D felony.

SECTION 21. IC 3-14-2-16 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A person who  
 knowingly does any of the following commits a Class D felony:

(1) Applies for or receives a ballot in a precinct other than that  
 precinct in which the person is entitled to vote.

(2) Except when receiving assistance under IC 3-11-9, shows a  
 ballot after it is marked to another person in such a way as to  
 reveal the contents of it or the name of a candidate for whom the  
 person has voted.

(3) Except when offering assistance requested by a voter in  
 accordance with IC 3-11-9, examines a ballot that a voter has  
 prepared for voting or solicits the voter to show the ballot.

(4) Receives from a voter a ballot prepared by the voter for  
 voting, except:

(A) the inspector;

(B) a member of the precinct election board temporarily acting  
 for the inspector;

(C) a member of a county election board or an absentee voter  
 board acting under IC 3-11-10; or

(D) a member of the voter's household or an individual  
 designated as attorney in fact for the voter, **or an employee of**  
**the United States Postal Service**, when delivering an  
 envelope containing an absentee ballot under IC 3-11-10-1.

(5) Receives a ballot from a person other than one of the poll  
 clerks or authorized assistant poll clerks.

(6) Delivers a ballot to a voter to be voted, unless the person is:

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- 1 (A) a poll clerk or authorized assistant poll clerk; or  
 2 (B) a member of a county election board or an absentee voter  
 3 board acting under IC 3-11-10.  
 4 (7) Delivers a ballot (other than an absentee ballot) to an inspector  
 5 that is not the ballot the voter receives from the poll clerk or  
 6 assistant poll clerk.  
 7 (8) Delivers an absentee ballot to a team of absentee ballot  
 8 counters appointed under IC 3-11.5-4-22, a county election board,  
 9 a circuit court clerk, or an absentee voting board under IC 3-11-10  
 10 that is not the ballot cast by the absentee voter.  
 11 **(9) Delivers an absentee ballot prepared by the voter for**  
 12 **voting to a county election board, except for:**  
 13 **(A) the inspector;**  
 14 **(B) a member of the precinct election board temporarily**  
 15 **acting for the inspector;**  
 16 **(C) a member of a county election board or an absentee**  
 17 **voter board acting under IC 3-11-10; or**  
 18 **(D) a member of the voter's household or an individual**  
 19 **designated as attorney in fact for the voter, or an employee**  
 20 **of the United States Postal Service, when delivering an**  
 21 **envelope containing an absentee ballot under IC 3-11-10-1.**  
 22 **(10) Possesses an unmarked absentee ballot on or before the**  
 23 **date of the election for which the absentee ballot has been**  
 24 **printed, unless the person is authorized to possess the**  
 25 **absentee ballot under this title as any of the following:**  
 26 **(A) A printer or the election division, when arranging for**  
 27 **the delivery of unmarked absentee ballots to a county**  
 28 **election board under IC 3-11-2.**  
 29 **(B) A county election board member.**  
 30 **(C) An absentee voter board member.**  
 31 **(D) An employee of the United States Postal Service when**  
 32 **delivering an envelope containing an absentee ballot.**  
 33 **(E) An individual authorized under IC 3-11-10-24 to**  
 34 **deliver an absentee ballot.**  
 35 **(F) An absentee ballot counter under IC 3-11.5.**  
 36 **(G) A provisional ballot counter.**  
 37 **(H) A precinct election officer.**  
 38 **(I) The voter who applied for the absentee ballot.**  
 39 **(11) Completes or signs an absentee ballot application for a**  
 40 **voter, or assists a voter in completing an absentee ballot**  
 41 **application in violation of IC 3-11.**  
 42 SECTION 22. IC 3-14-2-18 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who  
2 knowingly:

3 (1) does anything to enable any other person to see or know for  
4 what ticket, candidates, or public questions the voter has voted on  
5 a voting ~~machine~~; **system**; or

6 (2) moves into a position, or does any other thing, to enable the  
7 voter to see or know for what ticket, candidates, or public  
8 questions any other voter votes on a voting ~~machine~~; **system**;

9 commits a Class D felony.

10 SECTION 23. IC 3-14-2-24 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. A person who:

12 (1) takes a ballot legally deposited out of a ballot box **or out of a**  
13 **voting system** for the purpose of destroying ~~it the ballot~~ or  
14 substituting another **ballot** in its place;

15 (2) destroys or misplaces a ballot with the intent to substitute  
16 another ballot for it or with the intent to prevent it from being  
17 counted; or

18 (3) knowingly enters upon the pollbooks the name of a person  
19 who has not legally voted or knowingly tallies a vote for a  
20 candidate or on a public question not voted for by the ballot;

21 commits a Class D felony.

22 SECTION 24. IC 3-14-2-26 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. A person who:

24 (1) during the progress of an election or within the time for  
25 preparation required under this title, knowingly breaks open or  
26 violates the seal or lock of a ballot box, envelope, container, ~~or~~  
27 bag, **or voting system component** in which ballots have been  
28 deposited;

29 (2) knowingly obtains a ballot box, envelope, container, ~~or bag, or~~  
30 **voting system component** that contains ballots and cancels,  
31 withholds, or destroys a ballot;

32 (3) knowingly increases or decreases the number of ballots legally  
33 deposited in a ballot box, envelope, container, ~~or bag, or~~ **voting**  
34 **system component**; or

35 (4) knowingly makes a fraudulent erasure or alteration on a tally  
36 sheet, poll book, list of voters, or election return deposited in a  
37 ballot box, envelope, ~~or bag, or~~ **voting system component**;

38 commits a Class D felony.

39 SECTION 25. IC 3-14-2-29 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. A person who  
41 knowingly inspects a ~~voting machine or electronic~~ voting system under  
42 IC 3-12-4-18 without obtaining authorization from the state recount

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1 commission to conduct the inspection commits a Class D felony.

2 SECTION 26. IC 3-14-3-1.1 IS ADDED TO THE INDIANA CODE  
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2005]: **Sec. 1.1. A person who knowingly does any of the**  
5 **following commits a Class D felony:**

6 **(1) Procures or submits voter registration applications known**  
7 **by the person to be materially false, fictitious, or fraudulent.**

8 **(2) Procures, casts, or tabulates ballots known by the person**  
9 **to be materially false, fictitious, or fraudulent.**

10 SECTION 27. IC 3-14-3-4 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person who:

12 (1) knowingly obstructs or interferes with an election officer in  
13 the discharge of the officer's duty; or

14 (2) knowingly obstructs or interferes with a voter within ~~fifty (50)~~  
15 ~~feet of the polls;~~ **chute;**

16 commits a Class D felony.

17 **(b) A person who knowingly injures an election officer or a**  
18 **voter:**

19 **(1) in the exercise of the officer's or voter's rights or duties; or**

20 **(2) because the officer or voter has exercised the officer's or**  
21 **voter's rights or duties;**

22 **commits a Class D felony.**

23 ~~(b)~~ **(c)** A person called as a witness to testify against another for a  
24 violation of this section is a competent witness to prove the offense  
25 even though the person may have been a party to the violation. ~~and~~ The  
26 person shall be compelled to testify as other witnesses. However, the  
27 person's evidence may not be used against the person in a prosecution  
28 growing out of matters about which the person testifies, and the person  
29 is not liable to indictment or information for the offense.

30 SECTION 28. IC 3-14-3-7 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. An inspector or poll  
32 clerk in a precinct who, for the purpose of:

33 (1) deceiving a voter;

34 (2) causing it to be doubtful for what ticket, candidate, or public  
35 question a vote is cast; or

36 (3) causing it to appear that votes cast for one ticket, candidate, or  
37 public question were cast for another ticket, candidate, or public  
38 question;

39 removes, changes, or mutilates ~~a ballot label on~~ a voting ~~machine~~  
40 **system** or any part ~~thereof of a voting system~~ commits a Class D  
41 felony.

42 SECTION 29. IC 3-14-3-16 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

(1) on election day within:

(A) the polls; or

(B) the chute; ~~or~~

(2) within an area in the office of the circuit court clerk or a satellite office of the circuit court clerk established under IC 3-11-10-26.3 used by an absentee voter board to permit an individual to cast an absentee ballot; **or**

**(3) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law;**

commits a Class A misdemeanor.

SECTION 30. IC 3-14-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) As used in this section, "candidate" includes an individual whom the person knows is considering becoming a candidate.

(b) A person who, for the purpose of influencing a voter or candidate, **does any of the following commits a Class D felony:**

(1) Seeks to enforce the payment of a debt by force or threat of force.

(2) Ejects or threatens to eject the voter or candidate from a house the voter or candidate occupies.

(3) Begins a criminal prosecution. ~~or~~

(4) Damages the business or trade of the voter or candidate.

~~commits a Class D felony:~~

**(5) Communicates a threat to commit a forcible felony (as defined in IC 35-41-1-11) against a voter or candidate with the intent that the voter or candidate:**

**(A) engage in conduct against the voter's or candidate's will; or**

**(B) be placed in fear of retaliation for a prior lawful act as a voter or candidate.**

SECTION 31. IC 3-14-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

**(1) apply for or cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or**

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1 against a public question at an election or political convention;  
 2 gives, offers, or promises to any person any money or other property  
 3 commits a Class D felony.

4 SECTION 32. IC 3-14-3-20 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A person who, for  
 6 the purpose of inducing or procuring a voter to:

7 **(1) apply for or cast an absentee ballot; or**

8 **(2) vote or refrain from voting for or against a candidate or for or**  
 9 **against a public question at an election or political convention;**  
 10 receives, accepts, requests, or solicits from any person any money or  
 11 other property commits a Class D felony.

12 SECTION 33. IC 3-14-3-20.5 IS ADDED TO THE INDIANA  
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2005]: **Sec. 20.5. (a) This section does not**  
 15 **apply to activity subject to 18 U.S.C. 1341.**

16 **(b) An individual who knowingly:**

17 **(1) conspires to obtain property the individual would be**  
 18 **entitled to receive as compensation for serving as an elected**  
 19 **official by securing false or fraudulent absentee ballot**  
 20 **applications or voter registration applications; and**

21 **(2) for the purpose of executing the conspiracy:**

22 **(A) causes the applications to be sent or delivered by a**  
 23 **private or commercial carrier operating entirely within**  
 24 **Indiana; or**

25 **(B) takes or receives from the private or commercial**  
 26 **carrier the false or fraudulent applications, or causes the**  
 27 **applications to be delivered by the carrier to another**  
 28 **person;**

29 **commits a Class D felony.**

30 SECTION 34. IC 3-14-3-21.5 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2005]: **Sec. 21.5. A person who knowingly or**  
 33 **intentionally intimidates, threatens, or coerces an individual for:**

34 **(1) voting or attempting to vote;**

35 **(2) urging or aiding another individual to vote or attempt to**  
 36 **vote; or**

37 **(3) exercising any power or duty under this title concerning**  
 38 **registration or voting;**

39 **commits voter intimidation, a Class D felony.**

40 SECTION 35. IC 3-14-5-1 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This section  
 42 applies during an election whenever a voter makes an affidavit before

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the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the **county election board for delivery by the** prosecuting attorney for the county ~~who~~ **to the grand jury under section 2 of this chapter. The prosecuting attorney for the county** shall:

(1) proceed as if the affidavit had been made before the prosecuting attorney; and

(2) ~~notify~~ **ensure that the grand jury notifies** the NVRA official **under section 2 of this chapter** if a violation of NVRA appears to have occurred.

SECTION 36. IC 3-14-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each member shall endorse that member's name on the back of the bag or envelope.

(b) The inspector and judge of the opposite political party shall deliver the **sealed** bag or envelope to the county election board. ~~whose duty it is to~~ **The county election board shall do the following:**

(1) **Remove the affidavits from the bag or envelope.**

(2) **Mail a copy of each affidavit to the secretary of state.**

(3) **Replace the affidavits within the bag or envelope.**

(4) **Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.**

(5) ~~Carefully preserve it~~ **Carefully preserve the resealed bag or envelope** and deliver it, with the **county election board's** seal unbroken, to the foreman of the grand jury when next in session.

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

(d) The grand jury shall file a report of the result of its inquiry with:

(1) the court; and

(2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 37. IC 35-44-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who:

(1) confers, offers, or agrees to confer on a public servant, either

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before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant;

(2) being a public servant, solicits, accepts, or agrees to accept, either before or after ~~he the person~~ becomes appointed, elected, or qualified, any property, except property ~~he the person~~ is authorized by law to accept, with intent to control the performance of an act related to ~~his the person's~~ employment or function as a public servant;

(3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;

(4) solicits, accepts, or agrees to accept any property, except property ~~he the person~~ is authorized by law to accept, with intent to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his the person's~~ best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that ~~he the person~~ will fail to use ~~his the person's~~ best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(i) (A) withhold any testimony, information, document, or thing;

(ii) (B) avoid legal process summoning ~~him the person~~ to testify or supply evidence; or

(iii) (C) absent ~~himself the person~~ from the proceeding or investigation to which ~~he the person~~ has been legally summoned; ~~or~~

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

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- 1           (i) **(A)** withhold any testimony, information, document, or  
 2           thing;  
 3           (ii) **(B)** avoid legal process summoning the witness or  
 4           informant to testify or supply evidence; or  
 5           (iii) **(C)** absent ~~himself~~ **the person** from any proceeding or  
 6           investigation to which the witness or informant has been  
 7           legally summoned; or  
 8           **(9) confers or offers or agrees to confer any property on an**  
 9           **individual for:**  
 10           **(A) casting a ballot or refraining from casting a ballot; or**  
 11           **(B) voting for a political party, for a candidate, or for or**  
 12           **against a public question;**  
 13           **in an election described in IC 3-5-1-2 or at a convention of a**  
 14           **political party authorized under IC 3;**  
 15           commits bribery, a Class C felony.  
 16           (b) It is no defense that the person whom the accused person sought  
 17           to control was not qualified to act in the desired way.  
 18           SECTION 38. [EFFECTIVE JULY 1, 2005] **(a) The definitions in**  
 19           **IC 3-5-2 apply throughout this SECTION.**  
 20           **(b) Not later than September 1, 2005, the commission shall act**  
 21           **under IC 3-5-4-8 to prescribe absentee ballot application forms**  
 22           **that comply with IC 3-11, as amended by this act.**  
 23           **(c) This subsection does not apply to an absentee ballot**  
 24           **application form prescribed by the commission for use by an**  
 25           **absent uniformed services voter or overseas voter. An absentee**  
 26           **ballot application form prescribed by the commission before**  
 27           **September 1, 2005, may not be used or accepted by a county**  
 28           **election board after August 31, 2004.**  
 29           **(d) This SECTION expires January 1, 2006.**

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